

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 ALISON E. MINNIS,

9 Plaintiff,

10 v.

11 STATE OF WASHINGTON,
12 DEPARTMENT OF SOCIAL AND
HEALTH SERVICES,

13 Defendant.

CASE NO. C11-5600BHS

ORDER ON VARIOUS MOTIONS

14
15 This matter comes before the Court on Plaintiff Alison E. Minnis's ("Minnis")
16 motions to add party plaintiff (Dkt. 12), to add party defendants (Dkt. 15), to strike
17 affirmative defenses and for more definite statement of defense (Dkt. 17), to add party
18 defendants (Dkt. 18) and to amend by correcting scrivener errors and recaptioning (Dkt.
19 23), Paul Smith's ("Smith") motion to intervene (Dkt. 19), and Defendant State of
20 Washington, Department of Social and Health Services' ("DSHS") motion to stay case
21 and trial schedule pending outcome of plaintiff's pending motions (Dkt. 25). The Court
22

1 has considered the pleadings filed in support of and in opposition to the motions and the
2 remainder of the file and hereby rules as follows for the reasons stated.

3 **I. PROCEDURAL AND FACTUAL BACKGROUND**

4 On August 19, 2011, Minnis filed a complaint against DSHS alleging claims
5 arising out of her employment with DSHS. Dkt. 3. On December 20, 2011, DSHS filed
6 an answer that included sixteen affirmative defenses. Dkt. 7.

7 Beginning on March 30, 2012, Minnis filed the first of the various motions listed
8 above, which the Court will address below. *See* Dkts. 12, 15, 17, 18, 19, & 23.

9 **II. DISCUSSION**

10 As an initial matter, the Court concludes that Minnis's motion to strike the
11 affirmative defenses and for more definite statement of defense (Dkt. 17) is denied as
12 untimely as it was filed more than twenty-one days after DSHS's answer was filed (Dkt.
13 7). *See* Fed. R. Civ. P. 12(f). As another initial matter, the Court concludes that Minnis's
14 motion that includes a request to correct scrivener errors and recaptioning (Dkt. 23) is
15 granted to the extent that the punctuation corrections she seeks on pages 70 & 76 are
16 noted. *See* Dkt. 23 at 2. However, as discussed below, her request regarding
17 "recaptioning" will be addressed as part of the motion to amend to add claims.

18 **A. Motions to Amend to Add Claims and Defendants**

19 Rule 15(a)(2) of the Federal Rules of Civil Procedure provides that when a party
20 moves to amend before trial, "[t]he court should freely give leave when justice so
21 requires." District courts generally consider four factors in determining whether to deny
22 a motion to amend: "bad faith, undue delay, prejudice to the opposing party, and the

futility of amendment.” *Kaplan v. Rose*, 49 F.3d 1363, 1370 (9th Cir. 1994). Rule 20(a)(2) of the Federal Rules of Civil Procedure states that “[p]ersons . . . may be joined in one action as defendants if: (A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all defendants will arise in the action.”

Here, Minnis has filed two motions to add party defendants (Dkts. 15 & 18) and a motion to amend the complaint to add additional claims (Dkt. 23). The Court concludes that, at this time, DSHS has failed to show bad faith, undue delay, prejudice, or futility of the amendments, and Minnis has shown, at least preliminarily, that the right to relief arises out of the same series of occurrences and there are common questions of law and fact. Thus, the Court will grant the motions to amend (Dkts. 15, 18, & 23) to allow Minnis to file an amended complaint to add causes of actions and defendants. However, as DSHS points out in its response (Dkt. 24), Minnis’s current complaint does not comport with Rule 8(a) of the Federal Rules of Civil Procedure. Accordingly, if Minnis wishes to file an amended complaint, she must do so in accordance with all of the Federal Rules of Civil Procedure, including Rule 8(a), and must be filed on or before **August 6, 2012**. If an amended complaint is filed that contains deficiencies, DSHS may file an additional motion seeking relief.

B. Motion to Intervene and Motion to Add Plaintiff

Rule 20(a)(1) of the Federal Rules of Civil Procedure states that “[p]ersons may join in one action as plaintiffs if: (A) they assert any right to relief jointly, severally, or in

1 the alternative with respect to or arising out of the same transaction, occurrence, or series
2 of occurrences; and (B) any question of law or fact common to all plaintiffs will arise in
3 the action.” Rule 24 of the Federal Rules of Civil Procedure provides that a party can
4 intervene either as a matter of right or permissively. Intervention of right is available to a
5 person who “is given an unconditional right to intervene by a federal statute; or . . .
6 claims an interest relating to the property or transaction that is the subject of the action,
7 and is so situated that disposing of the action may as a practical matter impair or impede
8 the movant's ability to protect its interest, unless existing parties adequately represent that
9 interest.” Fed. R. Civ. P. 24(a). Permissive intervention is available to a person who “is
10 given a conditional right to intervene by a federal statute; or . . . has a claim or defense
11 that shares with the main action a common question of law or fact.” Fed. R. Civ. P.
12 24(b).

13 Here, the Court concludes that Minnis has shown that Smith’s claims arise out of
14 the same series of occurrences and that common questions of fact between her and
15 Smith’s claims are likely to arise in the action. Accordingly, the Court concludes that
16 Minnis’s motion to add party plaintiff (Dkt. 12) is granted and Smith may be added as a
17 plaintiff in this action. The Court need not reach the issue of whether he has met the
18 requirements to intervene and his motion to intervene (Dkt. 19) is denied as moot.
19 However, as the Court discussed above, the amended complaint, which should include
20 both Minnis and Smith as plaintiffs as well as their claims against DSHS and other
21 defendants, must comport with the Federal Rules of Civil Procedure and be submitted on
22 or before **August 6, 2012**.

1 **C. DSHS's Motion to Stay**

2 Because the Court has ruled on Minnis's and Smith's pending motions, DSHS's
3 motion to stay case and trial schedule (Dkt. 25) is denied as moot. However, if DSHS
4 still wishes to seek an extension of the scheduling order dates, it should file a renewed
5 motion further explaining its request and giving just cause for any requested extension.

6 **III. ORDER**

7 Therefore, it is hereby **ORDERED** that Minnis's motion to strike and for more
8 definite statement (Dkt. 17) is **DENIED**; Minnis's motions to amend to add claims and
9 defendants (Dkts. 15, 18, & 23) and to add party plaintiff (Dkt. 12) are **GRANTED**;
10 Smith's motion to intervene (Dkt. 19) is **DENIED as moot**; and DSHS's motion to stay
11 (Dkt. 25) is **DENIED as moot**.

12 Dated this 23rd day of July, 2012.

13
14 

15 **BENJAMIN H. SETTLE**
16 United States District Judge
17
18
19
20
21
22